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OUR SECOND YEAR

This issue marks the two year anniversary of the Employee Relations Bulletin. This is our eighth issue. During the past year, we have continued to address subjects that we hope are of interest and useful to you, our managers and supervisors. **An Index of the articles published during 2003 and 2004 is included in this issue.** We have appreciated your comments and questions during the past year, and hope that they will continue in 2005. In addition to serving as a way for us to inform you about various topics related to dealing with problem employee situations, the Bulletin also provides a way for us to hear from you. This is very helpful to us, and we hope to you also. Please continue to e-mail your questions, comments and ideas to us at the following address:

ER.Bulletin@aphis.usda.gov.

The Employee Relations Bulletin is distributed quarterly through the combined efforts of a team of employee relations specialists. Current members of this team are Milo Christianson, Jodi Foley, Dennis McPeters, Michelle Parker and Mary Royster. The formatting of the Bulletin is done by Dixie Simon, a member of the Information Technology Division in Minneapolis. The wonderful humor pieces found in the quarterly "Employee Relations: The Lighter Side" segment were provided by Sandy Conway, also an employee relations specialist. We have also received articles and editorial assistance from other members of the APHIS and AMS/GIPSA Employee Relations Branches, as well as articles from other branches. This year we want to extend our special thanks to our agency workplace violence coordinators David Trykowski (AMS), John Capehart (APHIS) and Mack Manis (GIPSA) for the articles they wrote for the June issue. A special thanks also to one of our APHIS Plant Protection and Quarantine Program supervisors who provided an interesting and informative description of his experiences in dealing with a problem situation, also in the June issue.

We hope that everyone has a wonderful Holiday Season, and we look forward to a new year of working with all of you in 2005.



HAPPY HOLI DAYS!!



DOCUMENTING – A CASE STUDY

We have talked about documentation before. The subject was first addressed in the **February 2003 Bulletin** in an article entitled “Documenting Conduct and Performance Problems.” This article was followed by articles in the **June and September 2003 Bulletins**, both of which concerned common documenting errors. If you have not read these articles, we recommend that you do so.

We thought it would be a good time to revisit this subject since effective documentation is such a critical step in dealing with problem employees. The following is a document recording some incidents of employee misconduct. Take a look at it and answer the following questions: (1) *What additional information needs to be recorded?* (2) *What might we want to leave out?*

Fred Owens is one of my best performers. His work quality has always been top notch. Unfortunately he has what might be called “serious attitude.” He likes to do things his way. The term “team player” has not yet made it into his vocabulary. He has often refused to follow my instructions and at times has even given assignments to his coworkers, which of course makes them angry. Just the other day I told him to file some documents, and he just blew me off. I’m getting sick of his attitude!! He seems to think he is the King of Siam and we are his serfs!!!!

The other day we had an incident involving Fred and one of his coworkers. I’m not sure what started it, but Fred got into a loud argument with Mary, one of his coworkers. He called her a f__ing b____. It was embarrassing. There were several non-Government people in the area, and George said that the whole thing offended him. Quite frankly it offended me too! I have had it with this guy and want him gone!!

John McFrazzled
Supervisor

Aside from the question of whether or not the King of Siam had serfs in his employment, there are some problems with this piece of documentation. First we need to calm Mr. McFrazzeled down. The frequent use of exclamation marks would indicate that anger has replaced reason in this case. Problem employees can do that to you sometimes. Some, in fact, seem to live for the opportunity.

Okay, so we’ve gotten John calmed down. What does he need to do to improve his documentation? First, he needs to recall the **Four W’s** noted in the “Documenting Conduct and Performance Problems” article. They are – **who, what, when** and **where**. The following are some **4W** things that are missing from John’s summary:

WHO?

- Other than Fred, we don’t know the last names of the other employees mentioned – Mary and George. To the extent known, you should include first and last names, position titles, and relationship to the employee (e.g., coworker, team leader, supervisor, etc.). If they are from another work unit, it would be helpful to identify where (and provide any other relevant identifying information).
- We don’t know if any persons other than Mary and George witnessed the incident. Any other witnesses should be identified.
- We need statements from everyone who witnessed the incident. Sometimes employees are reluctant to provide statements since they don’t want to get involved. However, all Federal employees have an obligation to provide information regarding what they have heard or seen in regard to a particular incident. Refusal to provide such information may be grounds for disciplinary action. Non-Government persons are not, of course, required to provide such information, but will often do so voluntarily if asked.

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WHAT, WHEN AND WHERE?

- We know that John has had some “failure to comply with instructions” problems with Fred in the past, but he did not provide any details. If these were recent, and documented, provide the documentation. If they were discussed with the employee, provide documentation regarding those meetings also. If they were not documented, but the approximate dates of the incidents and/or discussions can be recalled, this information would be helpful.
- We don’t have any details regarding the most recent “failure to comply” incident that has seemingly sent John over the edge. We know the task not performed was filing, but beyond that, we don’t have any details. It would be helpful to know exactly what Fred was expected to do, when he received the instruction to do it, how the instruction was given (verbally or in writing – if the latter, a copy of the instruction should be provided), and what he failed to do (e.g., did he complete part of the task, or none of it). The more descriptive, the better.
- We need a lot more information regarding the blowup between Fred and Mary. If known, we would like to know what precipitated the incident (likely both will blame the other), what was said, whether or not there was any kind of physical confrontation, where it occurred (sounds like it was in a public place), and who overheard it (in addition to the people who are already providing statements).
- We are missing parts of the words that Fred said to Mary. Sometimes supervisors leave out parts of certain words or phrases, apparently to make the documentation less offensive to the reader. We appreciate the thought, but please do not do this. In situations such as this, what was said and how it was said are critically important. Was the exchange loud? Was the perpetrator in the other’s person’s face? Was there pushing or touching? What were the facial expressions and other observed body language?

So these are some of the things that John should have included in his documentation. What about the things he shouldn’t have included? It is apparent that John was angry when he wrote his summary. In fact, the more he writes, the angrier he appears to become. This document probably became a form of therapy for John at some point. When we document a conduct or performance problem, we must try hard not to put our personal feelings on paper. The comments about the King of Siam, how embarrassed he was by the whole thing, how fed up he is with Fred, the fact that he wants Fred “gone,” the exclamation points and strong words – all these things tend to make the description of the incident personal, and do not add anything to the **who, what, when** and **where** details. What they might do, however, is give Fred ammunition to later claim that John was out to get him, as evidenced by the tone of his writing.

If you are unclear about what to include when documenting a particular incident, contact your servicing employee relations specialist for guidance.

EMPLOYEE RELATIONS THE LIGHTER SIDE

John came in late from work, appearing very drained. “My, you look tired,” Jane said. “You must have had a hard day today. What happened to make you so exhausted?” “It was terrible,” John said, “The computer broke down and all of us had to do our own thinking.”

Mrs. Smith pays a visit to her supervisor on Thursday afternoon. “I know this is short notice, but my husband has the day off tomorrow to do some heavy house cleaning. He wants me to help him in the attic and the garage, moving and hauling stuff. Is it possible to have tomorrow off?” We’re short-handed, Smith,” her supervisor replied. “I can’t give you the day off.” She smiles, “Thanks boss. I knew I could count on you!”

“I love deadlines. I like the whooshing sound they make as they fly by.” - Douglas Adams

From the Federal Personnel Management Institute’s newsletter “FedNews On Line”

THE ETHICS CORNER

SOLICITATION – OUTSIDE PERSONAL BUSINESSES AND/OR ACTIVITIES



The following memorandum regarding solicitation for outside personal businesses and/or activities was recently sent to all employees.

*When is it appropriate for employees to engage in solicitation on the job? The quick response to this question would be **never**, however, there are a few exceptions which are listed below.*

The general rule is that employees may participate in outside personal business opportunities and outside activities as long as these activities are conducted outside the official workplace and do not conflict with the “Standards of Ethical Conduct for Employees of the Executive Branch,” and/or Agency supplemental regulations. The Standards clearly state: “... employees are prohibited from using their official position for their private gain, or the private gain of any person with whom they have an employment or business relation or is otherwise affiliated in a non-governmental capacity.” All employees are obligated to use their official time in an honest effort to perform their official duties.

MRP cannot allow employees to conduct personal business in the workplace because this type activity conflicts with employees’ abilities to put forth an honest effort in the performance of their official duties. Outside personal business activities are disruptive to the workplace and are not contributing to the efficient operation of an office environment.



For example: It is inappropriate for employees to use the workplace to sell Avon, Tupperware, Amway, Mary Kay, Home Decorating Products, etc. Employees who sell such products on the job may be subject to appropriate disciplinary action for misuse of official time, and using their workplace for their private gain.

Employees are required to comply with rules and regulations regarding solicitation in the Federal workplace. Generally, the Combined Federal Campaign (CFC) is the only authorized solicitation of employees in the Federal workplace on behalf of charitable organizations.

It is inappropriate for employees to solicit for fundraisers for outside organizations in the workplace. Examples include school wrapping paper, church raffles, Girl Scout cookies, Boy Scout popcorn schools, etc. Employees may participate in these fundraisers outside of the workplace.

*In conducting outside business and participating in personal fundraising activities, employees **may not** use government time or resources; use or permit the use of your official title, position or authority except when ordinarily addressed using terms such as “The Honorable”; solicit co-workers, and/or prohibited sources.*

A prohibited source is any person who:

- (1) Is seeking official action by MRP (AMS, GIPSA and APHIS)*
- (2) Does business or seeks to do business with MRP*
- (3) Conducts activities regulated by the MRP*
- (4) Has interests that may be substantially affected by performance or nonperformance of the employee’s official duties; or*
- (5) Is an organization a majority of whose members are described in paragraphs (1) through (4) above.*

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EXCEPTIONS:

Employees may participate in fundraising in an official capacity if, in accordance with statute, Executive order, regulation or otherwise as determined by the Agency, he or she is authorized to engage in the fundraising activity as part of his/her official duties.

The Departmental Ethics Office may request prior approval from the Director, Office of Personnel Management, to conduct official fundraisers in support of victims of: hurricanes, tornadoes, floods, volcanic eruptions, landslides, fires, explosions, and other catastrophic events in any part of the world.

Employee organizations composing of MRP employees may engage in solicitations among their own members for organizational support or for the benefit of welfare funds for their members.

There are special solicitations for Child Care Centers located at Federal installations. These child care centers are not part of a Federal agency, therefore, no solicitation should be made on an official MRP letterhead.

All of the above cited exceptions must comply with the Standards of Ethical Conduct. These Standards also state that no supervisor should solicit contributions from subordinate employees, and no contribution may be solicited from prohibited sources. Employees participating as vendors in any fundraiser activity on the job must donate ALL profits to the fundraiser. It would be inappropriate for the employee to share in the profits from the fundraiser activity. Also, employees cannot use the fundraising event to advertise their personal business by handing out or displaying their business cards or flyers, etc.

It is always a good idea to seek approval for any activities of this type prior to engaging in the activities. You may contact your supervisor, your servicing Employee Relations Specialist, or Mary Royster, the Mission Area Ethics Advisor, on (202) 720-9858 for guidance.

WHAT SUPERVISORS CAN DO TO ENSURE THE SUCCESS OF CORRECTIVE ACTION

Supervisors most often try non-disciplinary measures to correct misconduct or performance deficiencies unless an employee's act is a very serious one or has been repeated. That means that by the time discipline is being issued, the supervisor already has endured considerable "headaches." Taking discipline is an unpleasant task, but once the situation has reached that point, the worst thing is to have the discipline reversed through a grievance or other appeal process. When that happens, the supervisor's authority has been undermined, and the employee sometimes can feel empowered to continue causing problems.

There are things a supervisor can do to ensure that disciplinary action will be upheld. The disciplinary process is just that, a *process*. A process involves steps, and the key to success is following those steps. The steps are:

- **Try other measures first**, such as counseling, facilitation, mediation, etc., unless the employee's act is serious (threats, assault, stealing, insubordination, etc.).
- **Make sure that employees know what you expect of them** and that they are aware of Agency policies through conversations, bulletin board postings, letters and memos, excerpts from directives, etc.
- **Be careful where you "draw your lines."** For example, if two employees talk to each other, failing to do their work and distracting others, a proper instruction initially would be to inform them that talking cannot interfere with their work or distract others. But to issue a "no talking at all" order without trying other measures first, is an unreasonable approach.
- **Don't overreact.** If an employee can get you to lose your temper, shout, curse, or issue unreasonable demands, a judge or arbitrator may view your corrective action as arbitrary, capricious, or overly harsh.
- **Seek advice.** Your servicing Employee Relations Specialist is there to advise and assist you in handling problem situations. Sometimes acting first and seeking advice after-the-fact results in a situation that cannot be repaired.
- **Get the facts about a situation before acting.** This can be done by asking for an investigation when appropriate, interviewing employees or private citizens, and examining documents.
- **Gather documentation** that is pertinent such as T&A forms, witness statements, reports, charge card records, etc. that often will be the proof of wrongdoing.
- **Ask yourself what action you or others have taken in the past** in similar circumstances; this will help you avoid disparate treatment of the employee.
- **Provide specific, rather than general information** to Employee Relations. For example, reporting that an employee said to a coworker, "Don't say a word to me! If I want to hear from you I'll let you know, Moron!" is much more useful than just saying, "Alvin was rude and discourteous."
- **Take the above steps promptly** and issue corrective action promptly. The longer the time period between the employee's act and the issuance of discipline, the less effect the discipline will have. Additionally, if the employee is covered by a collective bargaining agreement, an arbitrator could overturn the discipline for being untimely.

Some other suggestions that may be helpful, depending on the circumstances, are:

- **When obtaining written statements** from witnesses, also get statements from those who witnessed something but who say they heard and/or saw nothing. That will guard against stories changing later.
- A proposed notice allows the employee to respond to the charge; however, you **are allowed to ask the employee to present his/her version of an event** before you request a proposed notice.
- **Don't hesitate to recommend EAP.** EAP may have existed for alcohol and drug problems initially; however, it now provides an entire range of assistance on such matters as various kinds of addictions, depression, job anxiety, family problems, legal problems, personal problems, etc. An employee may not choose to seek assistance through the EAP, or may not be able to solve his/her problems through the EAP, but you are taking a reasonable step and providing potential help just by offering the EAP option and information.
- **Ask a union representative for assistance** if the employee is covered by a collective bargaining agreement. The union representative can choose whether or not to get involved. Many union officials would rather have a chance to talk with an employee about a problem first as a preventive measure rather than having to defend the employee after discipline has been issued.

TRAINING OPPORTUNITIES

APHIS Managing Performance and Conduct (for experienced supervisors)

The APHIS Managing Performance and Conduct (MPC) course was developed specifically to provide experienced supervisors and managers with updated knowledge and skills designed to strengthen their ability to more effectively manage their Human Resources responsibilities in the areas of performance and conduct. Managers and supervisors interested in attending the course should be experienced (i.e., non probationary) with personnel management responsibilities (i.e., writing performance standards and elements, appraising performance, and rewarding and disciplining employees, dealing with conduct and performance problems, etc.).

During the past few years, this highly successful program has been delivered APHIS-wide to approximately 1,000 experienced managers and supervisors. In addition, a specifically modified course was created for Grain Inspection, Packers and Stockyards Administration (GIPSA) employees as a result of a request from them and delivered to their supervisors at the Technical Center in Kansas City. Today, MPC serves as a “refresher” to many APHIS experienced supervisors and managers.

Since March 2002, the program has been available on an “as requested” basis. The APHIS Training and Development Branch (TDB) will continue to offer at least two courses a year for experienced managers and supervisors. Additional courses may also be delivered to managers/supervisors who have a specific group of people who could benefit from the training.

Three courses are scheduled for 2005. If you are a manager or supervisor who is interested in the MPC course and you have not attended MPC or the Fundamentals for APHIS Human Resource Management (FAHRM) course within the last 3 years, watch for the course announcements which will be delivered via e-mail or contact the APHIS Training and Development Branch at (301) 734-4949.

Fundamentals of APHIS Human Resource Management – “Blended Learning” *Course Schedule Information for Calendar Year 2005 for Probationary and New Supervisors*

1st Quarter	40 hr. Classroom Portion:	March 7-11, 2005
	Web Seminar Date:	February 7-11, 2005 – 1:00-3:30 p.m. ET
	Deadline for Application:	January 10, 2005
	Location:	Within Mountain Time Zone States*
2nd Quarter	40 hr. Classroom Portion:	June 6-10, 2005
	Web Seminar Date:	May 16-20, 2005 – 1:00-3:30 p.m. ET
	Deadline for Application:	April 11, 2005
	Location:	Within Central Time Zone States*

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Training Opportunities (Continued)

3rd Quarter 40 hr. Classroom Portion: September 12-16, 2005
Web Seminar Date: August 8-12, 2005 – 1:00-3:30 p.m. ET
Deadline for Application: July 11, 2005
Location: Within Pacific Time Zone States*

4th Quarter 40 hr. Classroom Portion: December 12-16, 2005
Web Seminar Date: November 14-18, 2005 – 1:00-3:30 p.m. ET
Deadline for Application: October 10, 2005
Location: Within Eastern Time Zone States*

***Training Sites:** The site for the classroom-based training session will be determined based on the selected applicants' locations within each time zone (Eastern, Central, Mountain and Pacific). Please apply for the session most convenient given your probationary period expiration date and workflow demands. **Upon enrollment, specific information will be forwarded.**

To obtain an application and course information, go to our website at: www.aphis.gov/mrpbs/training_employee_development.html. Complete the FAHRM application, Form #601 and e-mail to Training.Applications@aphis.usda.gov, or fax to Tanya Briscoe, Program Assistant at 301-734-3153. For additional information, please call Tanya Briscoe at 301-734-5551. For questions regarding course content or certification of training information, please call Betsy Guardiola, FAHRM Program Manager, at 301-734-8854 or e-mail at betsy.m.guardiola@aphis.usda.gov.



Previous issues of the Bulletin are available at www.aphis.usda.gov/mrpbs. Just click “Human Resources” and then “Employee Relations.” Questions, comments and ideas for future Bulletin articles can be directed to ER.Bulletin@aphis.usda.gov.

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EMPLOYEE RELATIONS DIRECTORY

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